IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION Nos: 1993 and 4037 of 2005

WRIT PETITION No: 1993 of 2005

Between:

P. Srinivasulu Naidu S/o Munaswami Naidu, R/o Chinnakannali Villge, Thottambedu Mnadal, Chittoor District.

... PETITIONER

AND

1 Special Cadre Deputy Registrar of Cooperative Societies (Dairy) The A.P.

Dairy Development Cooperative Federation Limited Lalapet, Hyderabad
2 District Cooperative Officer, Chittoor.
3 The Sub Divisional Cooperative Officer-cum- Official Person-in-charge

Srikalahasti Cooperative Milk Supply Society limited Srikakulahasti, Chitoor

District
4 The Srikalahasti Cooperative Milk Supply Society Limited Srikalahasti,

Chittoor District rep by its Manager

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or direction declaring the action of the respondents in not conducing the elections to the managing committee of the Srikalahasti Cooperative Milk Supply Society limited as illegal and arbitrary and consequently direct the respondents to conduct the elections.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents 1 to 3: GP FOR COOPERATION

Counsel for the Respondent No.4: MR. KRISHNA REDDY

WRIT PETITION NO : 4037 of 2005

Between:

P.Srinivasulu Naidu, s/o Munaswami Naidu,
R/o Chinnakannali Village, Thottambedu Mandal, Chittoor District.

... PETITIONER

AND

1 Government of Andhra Pradesh, Animal Husbandry, Dairy Development and

Fisheries (Dy.II) Department, Secretariat, Hyderabad, rep., by its Principal

Secretary
2 District Collector, Chittoor.
3 Special Cadre Deputy Registrar of Cooperative Societies (Dairy), The

A.P.Dairy Development Cooperative Federation Limited, Lalapet,

Hyderabad.
4 District Cooperative Officer, Chittoor.
5 The Sub Divisional Cooperative Officer-cum-Official Person-in-Charge,

Srikalahasti Cooperative Milk Supply Society limited, Srikalahasti, Chittoor

District.
6 The Srikalahasti Cooperative Milk Supply Society Limited, Srikalahasti,

Chittoor District, rep., by its Manager
7 Kilari Srinivasulu Naidu (G.M.No.3064) s/o Krishnam Naidu,
Chinnakannali Village, Tottambeedu Mandal, Chittoor District.
8 Mamilla Papaiah Naidu, S/o Subba Naidu (GM No.1037)
Cherlopalli Village, Srikalahasti Mandal, Chittoor District.
9 P.Sivarami Reddy, S/o Doraswamy Reddy (GM No.2060)
Diguva Veedhi Village, Srikalahasti Mandal, Chittoor District.
10 M.Nagaraju, S/o Laxmaiah (GM No.2275)
Bokkasampalayam Village, Srikalahasti Mandal, Chittoor District.
11 Marella Sundara Ramaiah, S/o Krishnaiah (GM No.2507)
Tondamanadu Village, Srikalahasti Mandal, Chittoor District.
12 Yeddala Ramachandraiah, S/o Maraiah (GM No.1947)
Peddakannali Village, Thottambeedu Mandal, Chittoor District.
13 V.Jayarami Reddy, S/o Narayana Reddy (GM No.888)
Challapalem Village, Srikalahasti Mandal, Chittoor District.

14 Mr. S.C.V. Naidu, M.L.A, Srikalahasthi, Chittoor District.

(Impleaded as per Court Order dated 26.04.2005)

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the action of the 1st respondent in issuing G.O.Ms.No.13 dated 28.02.2005 appointing the respondents 7 to 13 as members of the managing committee of the Srikalahasti Cooperative Milk Supply Society Limited, Srikalahasti and in not conducting the elections to the managing committee of the Srikalahasti Cooperative Milk Supply

Society Limited as illegal and arbitrary and consequently direct the respondents to conduct the elections.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents 1 to 5: GP FOR COOPERATION

Counsel for the Respondent No.6: Mr. KRISHNA REDDY

Counsel for the Respondents 7 to 13: MR. SUDHAKAR REDDY

The Court made the following order:

COMMON ORDER:

Heard the learned counsel for the petitioner, the Government Pleader for Cooperation, Sri Krishna Reddy appearing for the society and Sri Sudhakar Reddy appearing for the respondents 7 to 13 in W.P.No.4037 of 2005.

W.P.No.1993 of 2005 is filed to declare the action of the official respondents in not conducting elections to the Managing Committee of The Srikalahasti Cooperative Milk Supply Society Limited (for short 'the society) as illegal and arbitrary.

W.P.No.4037 of 2005 is filed questioning the action of the Government in issuing G.O.Ms.No.13 Animal Husbandry Dairy Development & Fisheries (DY.II) Department dated 28.02.2005 in exercise of its power under Section 32 (7) (a) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act) in appointing respondent Nos.7 to 13 herein as non-official members to manage the affairs of the said society for a period of six months.

The term of the elected managing committee of the society expired on 13.06.2003, thereafter the member of the elected committee was appointed as non-official person-in-charge from time to time and the term of this non-official person-in-charge committee was last extended up to28.09.2004. The Special cadre Deputy Registrar of Cooperative Societies (Dairy), Andhra Pradesh Dairy Development Cooperative Federation Limited, Lalapet, Hyderabad vide his proceedings dated 18.08.2004 appointed the Sub-Divisional Cooperative Officer – 3rd respondent in W.P. No.1993 of 2005 and 5th respondent in W.P.No.4037 of 2005, as Official Person-in-Charge of the society for a period of three

months or till elections are held to the society and elected committee assumes office, with a direction to the official person-in-charge to arrange for elections to the society within the said period. As the elections could not be conducted the Special Cadre Deputy Registrar vide his proceedings dated 24.11.2004 extended the term of the Official Person-in-Charge of the society for a period of 45 days from 18.11.2004 or till elections are held to the society and the elected committee assumes office, whichever is earlier.

While the matter stood thus, the Official Person-in-Charge requested the Special Cadre Deputy Registrar to extend his term for a further period of three months as he has already prepared the list of the eligible voters to conduct elections to the society and the same has been sent to the District Cooperative Officer, Chittoor District, requesting him to take necessary action to conduct the elections to the managing committee of the society. The expiry of his term was on 01.01.2005.

The Government vide Memo No.5266/Dy.II (2)/2004-1 dated 18.12.2004 directed the District Collector/Election Authority, Chittoor not to commence the election process of the said society until further orders.

It is submitted that as per the existing rules, on fulfillment of certain terms and conditions only the members are eligible to vote in the said elections. Accordingly, the Official Person-in-Charge addressed a letter to the District Cooperative Officer, Chittoor stating that the total members admitted in the society as “A” class shareholders are 3,460. Out of this 172 members expired and 20 members left the society. Accordingly, he has prepared the list of eligible members to vote in the elections as per the norms communicated in the proceedings R.C.No.520/2-3-P2 dated 12.06.2003 of the Milk Commissioner and Registrar of the Milk
Co-operatives, Andhra Pradesh Dairy Development Corporation Federation, Hyderabad. As per the norms prescribed there are 662 members eligible to vote in the elections. The list of the eligible members was also sent to the District Cooperative Officer, Chittoor requesting him to take necessary action for conduct of elections to the managing committee of the society.

It is not known as to why the Government requested the District Collector, Chittoor not to

commence the elections to the society vide its proceedings dated 18.12.2004.

Prima facie I do not see any illegality or irregularity that has been committed by the Official Person-in-Charge as he has taken all steps to conduct the elections by preparing the voters list in accordance with the norms and also requested the Special Cadre Deputy Registrar to extend him term so as to conduct the elections vide his letter dated 01.11.2004.

In the meanwhile, the local M.L.A made a representation before the Honourable Minister for Animal Husbandry and Dairy Development Corporation vide his letter dated 15.02.2005 stating that he made enquiries about the voters list prepared by the previous non-official nominated committee. As per the list 3,460 A-Class Members enrolled themselves as members in the society, there are 41 milk yards supplying milk to the society to the tune of 5,200 liters by 1100 members of the society daily morning and evening. As per the amended Act in 1995 a member who supplies 185 liters milk for continuous six months in a year is eligible to contest and to vote in the elections. As per the norms 2000 members are eligible to become members and eligible to vote out of 3,460 members. But taking advantage of the amended Act the previous non-official committee managed to reduce the valid voters list to 662 out of the total members of 3,460. It is further stated that even in the 662 valid voters list there are several deceased persons continuing as members and twenty members of the society, who left the society, are still enrolled as valid voters prepared by the non-official committee. Accordingly, the M.L.A. requested the Honourable Minister to stop the election of the society until the detailed verification of the members list is completed.

On the said letter the Government issued the impugned order in G.O.Ms.No.13 dated 28.02.2005 appointing the non-official members to manage the affairs of the society.

It is pertinent to note that none of the members who have fulfilled the norms prescribed in R.C.No.520/2-3-P2 dated 12.06.2003 of the Milk Commissioner and the Registrar of the Milk Cooperatives and not figured in the voters list made any representation. There is no complaint by any of the members. Every qualified member is entitled to vote as per the Act

and the Rules made thereunder fulfilling the norms prescribed by the Milk Commissioner vide proceedings dated 12.06.2003.

If that be so, the elections have to be conducted in accordance with Rule 22 of the Andhra Pradesh Cooperative Societies Act and Rules, 1964 (for short 'the Rules'). The power of the Government to postpone the elections is only under Rules 22 (c) in the following circumstances:

i. Break down of law and order affecting the peaceful and lawful conduct of elections.

ii. Any unnatural calamity that prevents the conduct of elections particularly, voters from participation in the election.

iii. Where there is reasonable apprehension that voters will not be allowed to vote frankly and freely.

None of the above circumstances exist in the instant case for the Government to postpone the elections.

Learned counsel for the petitioner submits that there is no irregularity committed by the Official Person-in-Charge and if that be so, on the letter addressed by the local M.L.A, appointing non-official members to manage the affairs of the society is illegal, contrary and without any justification whatsoever. The local M.L.A only made a representation to conduct an enquiry with regard to the manner in which the voters list was prepared. Therefore, there is no justification on the part of the Government in not extending the term of the Official Person-in-Charge and there is no justification in appointing non-official person-in-charge committee. However, the learned counsel for the petitioner submits that without going into all the controversies the respondents may be directed to conduct the elections as expeditiously as possible within a period of 45 days.

Having regard to the facts and circumstances of the case and without going into the validity or otherwise of the impugned G.O.Ms.No.13 dated 28.02.2005 the respondents are directed to conduct elections to The Srikalahasti Cooperative Milk Supply Society Limited before 31.07.2005.

The writ petitions are accordingly disposed of with the above direction. No costs.

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V. ESWARAIAH, J

April 29, 2005

Dsk

Note: Furnish Copy by 02.05.2005

(B/o)

Dsk

To

1 The Principal Secretary Government of Andhra Pradesh, Animal Husbandry,

Dairy Development and Fisheries (Dy.II)Department, Secretariat, Hyderabad,
2 The District Collector, Chittoor.
3 The Special Cadre Deputy Registrar of Cooperative Societies (Dairy), The

A.P.Dairy Development Cooperative Federation Limited, Lalapet,

Hyderabad.
4 The District Cooperative Officer, Chittoor.
5 The Sub Divisional Cooperative Officer-cum-Official Person-in-Charge,

Srikalahasti Cooperative Milk Supply Society limited, Srikalahasti, Chittoor

District.

6 Two CCs to GP For Cooperation, High Court Buildings, Hyderabad (OUT)

Two CD Copies.